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CITY AND COUNTY OF SAN FRANCISCO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JANE ROE, an individual; MARY ROE, an individual; SUSAN ROE, an individual; JOHN ROE, an individual; BARBARA ROE, an individual; PHOENIX HOTEL SF, LLC, a California limited liability company; FUNKY FUN, LLC, a California limited liability company; and 2930 EL CAMINO, LLC, a California limited liability company,

Plaintiffs,

vs.

CITY AND COUNTY OF SAN FRANCISCO, a California public entity,

Defendant.

Case No. 4:24-cv-01562-JST

JOINT CASE MANAGEMENT STATEMENT

Hearing Date: April 8, 2025
Time: 2:00 p.m.
Place: Videoconference

Trial Date: None set.

Pursuant to the Court's March 25, 2025 Minute Entry (ECF No. 90), the parties jointly submit this Joint Case Management Statement focusing on proposed deadlines and discovery.

I. Discovery

A. Defendant's Statement

Defendant, based on the explanation and update provided below, provide the following proposal for producing custodial documents responsive to Plaintiffs' First Set of Requests for Production (non-custodial document production is substantially complete): (1) Defendant will produce any responsive, non-privileged documents belonging to Emily Cohen (the only upcoming deponent with potentially responsive custodial documents) on or before April 14, 2025; and (2) by April 10, 2025, Defendant will provide Plaintiffs an update on the volume of custodial files requiring review and propose a completion date for the custodial files. Defendant respectfully requests the Court accept this proposal and vacate the April 8, 2025 Case Management Conference.

Plaintiffs' First Set of Requests for Production seek documents related to three current or former homeless shelters in the Tenderloin—the COVA Hotel, Adante Hotel, Monarch Hotel, and a former hostel (685 Ellis). The Parties have met in good faith and negotiated the scope of Plaintiffs' Requests and Defendant has collected and produced documents responsive to the Requests, as modified by the Parties' discussions. As of April 1, 2025, Defendant has substantially completed its production of non-custodial documents responsive to the modified Requests. The only outstanding non-custodial document is data (in the form of an Excel spreadsheet) from San Francisco's Department of Emergency Management that reflects calls for service (*e.g.*, 911 calls) for incidents in the Tenderloin that have been categorized by codes that Plaintiffs selected. Defendant has sent Plaintiffs an Excel spreadsheet reflecting the non-confidential data the Department possesses regarding the identified calls for service and has inquired as to whether the information satisfies their Request.

In order to locate potentially responsive custodial documents (*e.g.*, emails and attachments), Defendant has identified 11 City employees, including the employees Plaintiff intends to depose in the

1 next few weeks, and is in the process of collecting their email files from late 2021 to the present.¹
2 Given the volume of data (several years' worth), Defendant expects to have collected each custodian's
3 emails by the end of this week, and then will run search terms (created using Plaintiffs' Requests) on
4 those emails to identify documents potentially responsive to Plaintiffs' Requests, as amended.
5 Defendant expects to have hit counts for the terms by early next week. As of this Statement,
6 Defendant does not know how many documents will be identified using the terms, so is unable to
7 provide a specific date by which all custodial files that contain one or more of the search terms will be
8 reviewed and produced (if responsive and not privileged). The terms may need to be modified
9 depending on the total hit count to comply with Rule 26's proportionality requirement. Additionally,
10 Defendant cannot know how long it will reasonably take to review the files that hit on the proposed
11 search terms until after it knows the volume of documents in the set. Defendant will update Plaintiffs
12 and propose a completion date promptly, and no later than April 10, upon determining the volume of
13 custodial files identified using the search terms.

14 There are two reasons why the upcoming depositions of City employees provide no basis to
15 order Defendant to complete its review and production of the custodial files before the upcoming
16 depositions. First, three of the four City employees whose depositions are set for the coming weeks
17 (Eileen Loughran, Krista Gaeta, and Dr. Hillary Kunins) are unlikely to have documents responsive to
18 Plaintiffs' Requests because Plaintiffs' discovery requests concern shelters unrelated to these
19 custodian's work. Those employees work for the Department of Public Health ("DPH"), which is not
20 involved in the operation of the four homeless shelter that are the subject of Plaintiffs' Requests. As
21 noted, Plaintiffs Requests are specific to documents relating to four homeless shelters that operate or
22 operated in the Tenderloin, including documents like contracts, policies, and certain communications
23 between the four shelters and employees of the Department of Homelessness and Supportive Housing
24 ("HSH"), which is primarily responsible for overseeing the City's operations regarding shelters. The
25 three DPH employees whose depositions are coming up are not involved in overseeing operations at
26

27 ¹ Plaintiffs incorrectly suggest that this is the same process the City offered in February.
28 Several of the custodians included in this set were only added as custodians after Plaintiffs requested
their addition at the last Case Management Conference.

1 the four shelters that are the subject of Plaintiffs' Requests and therefore there is no need for
2 Defendant to complete its review and production of the custodial files before those depositions occur.
3 Second, Plaintiffs submitted multiple Public Records Act request seeking documents from the
4 Department of Public Health (and other departments) and have received documents in response to
5 those requests, including communications from the four employees whose depositions are upcoming.
6 Plaintiffs' decision to go ahead with the depositions, presumably using the documents received in
7 response to the Public Records Act requests, is no basis to require expedited production of entirely
8 distinct documents regarding Tenderloin homeless shelters.

9 The only HSH employee whose deposition is upcoming is Emily Cohen. She is a custodian
10 whose files the City plans to search and review for responsive documents. Her deposition is currently
11 scheduled for April 16, 2025. Because Ms. Cohen's deposition is upcoming and her files may contain
12 documents responsive to Plaintiffs' requests (as modified), Defendant proposes prioritizing the review
13 of her custodial files and producing any responsive, non-privileged documents on or before April 14,
14 2025.

15 **B. Plaintiffs' Statement**

16 Plaintiffs confirm they received non-custodial productions on March 26, 2025, and March 31,
17 2025 – just over 150 days since the date the requests were served. Plaintiff agrees with the proposed
18 timeline to produce Ms. Cohen's custodial records by April 14, 2025. An update on the custodial files
19 requiring review by April 10, 2025, is acceptable. However, the City must provide a production date
20 for the remaining custodial records.

21 In the last Case Management Conference ("CMC") statement, the Plaintiffs proposed that a
22 Preliminary Injunction briefing schedule be set at the next CMC, initially proposed for May 2025,
23 pending the ongoing production. Without a deadline to complete this production, Plaintiffs may find
24 themselves, again, asking the court to set a CMC the following month once the production is complete.

25 Plaintiff notes that the process of generating a hit report to then determine a final production
26 date was the same process offered by the City in February. At that time, no deadline for a final
27 production was set, and the parties now find themselves conferring on the same process over a month
28 later. The fact that Plaintiffs must rely on public records requests to conduct depositions (initially

1 noticed for December) underscores the unacceptable timeline for responses to formal discovery
2 requests. But within a week of the Court setting this CMC, all non-custodial productions were served,
3 and a hit report is expected in less than 10 days. On a meet and confer call on April 1, Plaintiffs
4 proposed a production deadline of April 30, but the parties were unable to reach an agreement.
5 Plaintiffs are open to a different production date given the City's technical concerns, but received no
6 counter proposal from the City.

7 Plaintiffs request that the April 8 CMC remain on calendar, unless a production date is agreed
8 to ahead of the CMC between the parties or the Court sets a deadline for the production to be
9 completed.

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12 Dated: April 1, 2025

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18 By: /s/ John H. George
JOHN H. GEORGE

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20 Attorneys for Defendant
CITY AND COUNTY OF SAN FRANCISCO
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1 Dated: April 1, 2025

WALKUP, MELODIA, KELLY & SCHOENBERGER

2 By: ** /s/ Ashcon Minoiefar
3 ASHCON MINOIEFAR

4 Attorneys for Plaintiffs
5 JANE ROE, MARY ROE, SUSAN ROE, JOHN ROE,
6 BARBARA ROE, PHOENIX HOTEL SF, LLC, FUNKY
7 FUN, LLC, and 2930 EL CAMINO, LLC

8 ***Pursuant to Civil L.R. 5-1(i)(3), the electronic signatory has obtained approval from this signatory.*
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CIVIL L.R. 5-1(h)(3) ATTESTATION

I, JOHN H. GEORGE, attest that each of the other signatories have concurred in the filing of this document, which shall serve in lieu of their own signatures on the document.

Dated: April 1, 2025

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